IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 2461 of 2005

Between:

K.Vijayalaxmi w/o Nagabhushanam
Sangameshwar-2 R/o Sangameshar Domakonda (M) District. Nizamabad

..... PETITIONER

AND

1 The Joint Collector (Civil Supplies) Nizamabad.
2 O/o Revenue Divisional officer Rep.by Revenue Divisional Officer Kamareddy,Nizamabad District.
3 O/o Mandal Revenue Office Rep.by its Mandal Revenue Officer, Domakonda Mandal Nizamabad District.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue a writ order or direction, more particularly one in the nature of writ of Certiorari calling for the records relating to the in Proceedings No.B1/69/05 dt.20/01/2005 issued by the 2nd Respondent i.e., Revenue Divisional Officer, Kamareddy and declaring the same as illegal, arbitrary and without jurisdiction and contrary to the procedure contemplated under AP.P.D.S.(Control) orders, 2001 and also under the Provisions of Sec.6 of Essential Commodities Act, 1955 and set aside the same and consequently direct the respondents herein to continue the petitioner as Fair Price Dealer and pass such other order or orders as the Hon'ble court deems fit and proper in the circumstances of the cases.

Counsel for the Petitioner:MR.VINOD KUMAR DESHPANDE

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

Petitioner is the dealer of a fair price shop. Proceedings under Section 6-A of the Essential Commodities Act, 1955 (for short 'the Act') were initiated against her on certain allegations of irregularities in supply of essential commodities. Notice under Section 6-B of the Act is also said to have been issued. On the basis of pendency of the proceedings under Section 6-A before the Joint Collector, the 1st respondent, the 2nd respondent suspended the authorization of the petitioner through his order, dated 20.01.2005. Petitioner challenges the same.

Learned counsel for the petitioner submits that there did not exist any basis for the very initiation of proceedings under Section 6-A of the Act, and as such, the suspension of authorization of the petitioner is totally uncalled for.

Learned Government Pleader for Civil Supplies, on the other hand, submits that the truth or otherwise of the allegations against the petitioner can be considered only in the proceedings under Section 6-A of the Act, and it is too early and premature to infer any facts in favour or against the petitioner, at this stage.

Clause 5 (3), annexed to the A.P. State Public Distribution System Control Order, 2001, empowers the appointing authority (Revenue Divisional Officer), to suspend the authorization of a fair price shop dealer, in case, any proceedings under the Act are initiated against the dealer. It is not in dispute that proceedings under Section 6-A of the Act are pending before the 1st respondent against the petitioner. The 2nd respondent suspended the authorization of the petitioner, in view of the said proceedings. Therefore, no exception can be taken to the action of the 2nd

respondent.

By the very nature of things, the 2nd respondent is virtually helpless in the matter of proceeding with the enquiry, as long as the proceedings under Section 6-A are pending before the 1st respondent. Further, even if an appeal is preferred by the petitioner against the order of suspension, no favourable result can be expected, since the appeal is to the very authority before whom the 6-A proceedings are pending. The uncertainty prevailing in the matter can be set at rest, if only the 1st respondent concludes the proceedings pending before him. The said proceedings are said to be in very advanced stage.

Therefore, the writ petition is disposed of directing the 1st respondent to conclude the proceedings, pending before him, under Section 6-A of the Act against the petitioner, within a period of four weeks from today. If the proceedings end in favour of the petitioner, the order of suspension passed by the 1st respondent shall cease to be operative. On the other hand, if the proceedings result in confiscation of any seized commodities, further action will depend upon the show cause notice that may be issued by the 2nd respondent. Pending these proceedings, no dealer shall be appointed in the place of the petitioner on regular basis. It shall, however, be open to them to make temporary arrangements. No order as to costs.

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L.NARASIMHA REDDY, J

Dated : 16.02.2005

Note: Furnish copy

in three days

(B/o)

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To

1 The Joint Collector (Civil Supplies) Nizamabad.
2 The Revenue Divisional Officer,O/o Revenue Divisional officer Kamareddy,Nizamabad District.
3 The Mandal Revenue Officer, Domakonda Mandal Nizamabad District.

4 2 CCs to the Government Pleader for Civil Supplies, High Court Buildings, Hyderabad. (OUT)

5 2CD copies.